

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	File Number EB-03-KC-005
	)	
The Helicon Group L.P.	)	NAL/Acct. No.200332560014
Owner of Unregistered Antenna Structure Located	)	
37° 05' 02" North Latitude and 96° 11' 11" West	)	FRN 0005-0994-60
Longitude, near Sedan, Kansas	)	
St. Louis, Missouri	)	
	)	

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

Released: April 4, 2003

By the Enforcement Bureau, Kansas City Office:

**I. INTRODUCTION**

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find The Helicon Group L.P. ("Helicon"), owner of the antenna structure located at coordinates 37° 05' 02" North Latitude and 96° 11' 11" West Longitude, just south of Sedan, Kansas, apparently liable for a forfeiture in the amount of three thousand dollars (\$3,000) for willful and repeated violation of Section 17.4(a) of the Commission's Rules ("Rules").<sup>1</sup> Specifically, we find Helicon apparently liable for failure to register its antenna structure.

**II. BACKGROUND**

2. On January 14, 2003, an agent of the FCC Enforcement Bureau's Kansas City Office inspected the antenna structure located at 37° 05' 02" North Latitude and 96° 11' 11" West Longitude, near Sedan, Kansas. The agent noted that the structure was painted and fitted with red lighting, however, there was no evidence of tower registration with the Commission. A telephone conversation later in the day with Mr. Strain of Helicon confirmed the tower was not registered.

3. On January 23, 2003, the agent spoke with a representative of Helicon who verified that The Helicon Group L.P. owned the antenna structure since about January 2000 and that the structure was not registered with the Commission. The Federal Aviation Administration ("FAA") study for the structure required that the tower be painted and lighted since it is over 200 feet tall.

**III. DISCUSSION**

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<sup>1</sup> 47 C.F.R. § 17.4(a).

4. Section 17.4(a) of the Rules provides that the owner of any proposed or existing antenna structure that requires notice of proposed construction to the FAA must register the structure with the Commission. Helicon's antenna structure required notification to the FAA because the structure exceeded 200 feet in height.<sup>2</sup> Therefore, Helicon's antenna structure required Commission registration. From at least January 2000 to January 23, 2003, The Helicon Group L.P. failed to register its antenna structure with the Commission.

5. Based on the evidence before us, we find The Helicon Group L.P. willfully<sup>3</sup> and repeatedly<sup>4</sup> violated Section 17.4(a) of the Rules by failing to register its antenna structure with the Commission from January 2000 until January, 2003.

6. Pursuant to Section 1.80(b)(4) of the Rules,<sup>5</sup> the base forfeiture amount for failing to register an antenna structure is \$3,000 (failure to file required forms or information). In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"), which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.<sup>6</sup> Considering the entire record and applying the statutory factors listed above, this case warrants a \$3,000 forfeiture.

#### **IV. ORDERING CLAUSES**

7. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,<sup>7</sup> and Sections 0.111, 0.311 and 1.80 of the Rules,<sup>8</sup> The Helicon Group L.P. is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of three thousand dollars (\$3,000) for willful and repeated violation of Section 17.4(a) of the Rules for failing to register its antenna structure.

8. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this NAL, The Helicon Group L.P. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

9. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch,

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<sup>2</sup> See 47 C.F.R. § 17.7(a).

<sup>3</sup> Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act . . . ." See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387-88 (1991).

<sup>4</sup> The term "repeated," when used with reference to the commission or omission of any act, "means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day." 47 U.S.C. § 312(f)(2).

<sup>5</sup> 47 C.F.R. § 1.80(b)(4).

<sup>6</sup> 47 U.S.C. § 503(b)(2)(D).

<sup>7</sup> 47 U.S.C. § 503(b).

<sup>8</sup> 47 C.F.R. §§ 0.111, 0.311, 1.80.

Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. and FRN referenced above. Requests for payment of the full amount of this NAL under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.<sup>9</sup>

10. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12<sup>th</sup> Street SW, Washington DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division and MUST INCLUDE THE NAL/Acct. No. referenced above.

11. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

12. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the Technical & Public Safety Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC’s Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

13. IT IS FURTHER ORDERED THAT a copy of this NAL shall be sent by regular mail and Certified Mail Return Receipt Requested to The Helicon Group L.P., 12405 Powerscourt Drive, St. Louis, MO 63131-3674.

FEDERAL COMMUNICATIONS COMMISSION

Robert C. McKinney

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<sup>9</sup> See 47 C.F.R. § 1.1914.

District Director  
Kansas City Office  
Enforcement Bureau

Attachment